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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|---|-------------|----------------------|----------------------------|------------------------|
| 10/710,705  | 07/29/2004  | Toshiyasu Abe        | OPAS11004                  | 4704                   |
| 25315 7590 12/27/2007<br>BLACK LOWE & GRAHAM, PLLC<br>701 FIFTH AVENUE<br>SUITE 4800<br>SEATTLE, WA 98104 |             |                      | EXAMINER<br>WEST, THOMAS C |                        |
|   |             |                      | ART UNIT<br>3621           | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>12/27/2007    | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/710,705

Applicant(s)

ABE, TOSHIYASU

Examiner

Thomas West

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date May 9, 2006.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the US Application filed on July 29, 2004.
2. Claims 1-37 are currently pending and have been examined.

### ***Information Disclosure Statement***

3. The Information Disclosure Statement filed on May 9, 2006 has been considered.

An initialed copy of the Form 1449 is enclosed herewith.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5-11, 13-15, 17-26, 28-37 are rejected under U.S.C. 103(a) as being unpatentable over Downs et al., US Patent No. 6,226,618 ("Downs ") in view of Fritsch, US Patent No. 6, 233,682 ("Fritsch").

Art Unit: 3621

**Claims 1, 13, 24:**

Downs, as shown, discloses authorizing purchaser and distributing portion of sale (see at least column 2, lines 35-39).

Downs discloses the limitations as shown above. Downs does not directly disclose a purchaser of a medium or recording on the medium, but Fritsch teaches (see at least column 4, lines 16-19, column 5, lines 58-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Downs to include the purchasing and recording of Fritsch since this allows the consumer, for example, to buy the rights to copy music as well as purchase the media for doing so on the same website.

**Claims 2, 3, 14, 15, 25, 26:**

Downs, as shown, discloses recoding media (see at least column 4, lines 1-3).

**Claims 5, 6, 17, 18, 28, 29:**

Downs, as shown, discloses a unique identifier (see at least column 22, lines 9-13).

**Claims 7, 19:**

Downs, as shown, discloses authorizing purchaser (see at least column 7, lines 56-65).

Art Unit: 3621

**Claims 8, 20:**

Downs, as shown, discloses retrieve works from a database and store them on a medium (see at least column 19, steps 138, 143).

**Claims 9, 21:**

Downs, as shown, discloses receiving identifier, purchaser information, and award (see at least column 22, lines 9-13, column 75, lines 20-22, column 45 lines 53-60, column 75, lines 1-20).

**Claims 10, 11, 22, 23, 34, 35:**

Downs, as shown, discloses registered entities (see at least column 9, lines 27-32).

**Claims 30, 33:**

Downs, as shown, discloses data entry, identifier, authorization (see at least column 75, lines 1-20, column 75, lines 51-67, column 10, lines 50-60, column 11, lines 40-48).

**Claim 31:**

Downs discloses the limitations as shown above. Downs further discloses a database and approved identifier (see at least column 9, lines 5-7, column 11,

Art Unit: 3621

lines 40-48). Downs does not directly disclose a blank medium, but Fritsch teaches (see at least column 4, lines 16-19, column 5, lines 58-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Downs to include the blank medium of Fritsch since this allows the consumer, for example, to buy the rights to copy music as well as purchase the media for doing so on the same website.

**Claim 32:**

Downs, as shown, discloses a webpage and database (see at least column 75, lines 1-20).

**Claims 36, 37:**

Downs discloses the limitations as shown above. Downs further discloses registered entities and distributing compensation (see at least column 2, lines, lines 35-39, column 9, lines 27-32). Downs does not directly disclose distributing a recording medium, but Fritsch teaches (see at least column 4, lines 16-19, column 5, lines 58-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Downs to include the recording medium of Fritsch since this allows the consumer, for example, to buy the rights to copy music as well as purchase the media for doing so on the same website.

Art Unit: 3621

6. Claim 12 is rejected under U.S.C. 103(a) as being unpatentable over Downs et al., US Patent No. 6,226,618 ("Downs ") in view of Fritsch, US Patent No. 6, 233,682 ("Fritsch"), in further view of Schneier, US Patent Application No. 2003/0177347 ("Schneier").

**Claim 12:**

Downs/Fritsch disclose the limitations as shown above. Downs/Fritsch do not directly disclose a charitable organization, but Schneier teaches (see at least paragraph 465).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Downs/Fritsch to include the charitable organization of Schneier since this allows an artist or author to a portion of revenues to a charity of their choice.

7. Claims 4, 16, 27 are rejected under U.S.C. 103(a) as being unpatentable over Downs et al., US Patent No. 6,226,618 ("Downs ") in view of Fritsch, US Patent No. 6, 233,682 ("Fritsch") and in further view of Ferandez-Molina, The Moral Rights of Authors in the Age of Digital Information ("Ferandez").

Art Unit: 3621

**Claims 4, 16, 27:**

Downs/Fritsch disclose the limitations as shown above. Downs/Fritsch do not directly disclose a written authorization Ferandez teaches (see at least page 113, column 2, paragraph 5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Downs/Fritsch to include the written authorization of Ferandez since this provides the customer with authorization to copy an artistic work.



Art Unit: 3621

### **Conclusion**

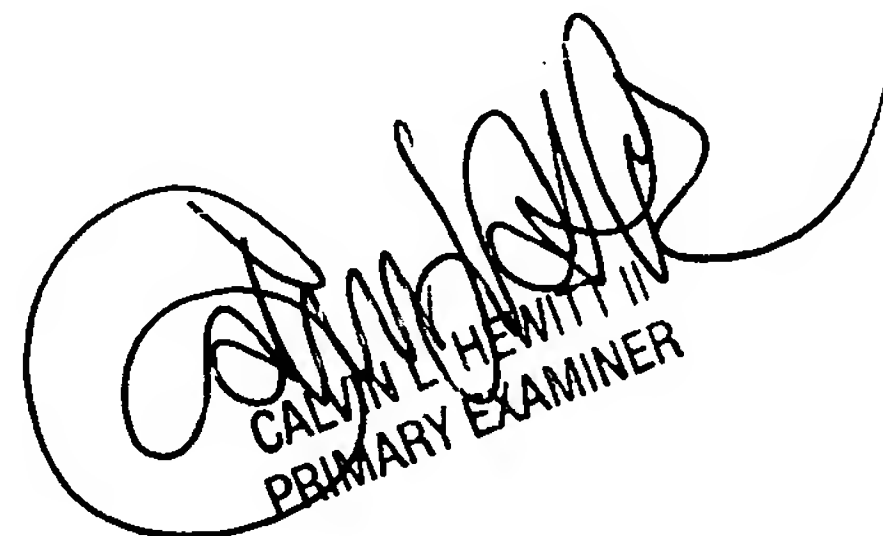
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas West whose telephone number is 571-270-1236. The examiner can normally be reached on M-R 7:30am - 5pm EST, ALT Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thomas West  
Patent Examiner  
Art Unit 3621  
December 21, 2007

Signature: Thomas West

  
CALVIN L. HEWITT III  
PRIMARY EXAMINER